

REMARKS

Claims 1-15 are present in the application.

Claims 1 and 15 have been amended to eliminate any reference to the thermal insulation of the base layer being "substantially non-compressible."

To clarify the nature of the present invention, the independent claims have been amended and are now directed to a seriatim assembly comprising:

(A) a substrate defining an exposed exterior surface;
(B) an intermediate layer of a thermally insulative and waterproof barrier from protecting said exterior surface, said barrier being disposed over said exterior surface and [comprising the previously claimed plurality of generally rectangular flexible blankets], and
(C) an outer layer disposed over said intermediate layer and comprising a concrete slab.

Support for the amendment is found in the specification at page 2, lines 19-21; page 4, lines 6-13; and page 8, line 25 - page 9, line 3.

Claims 1-9 and 11-13 are rejected as unpatentable over Katz U.S. 3,162,566 in view of Walker U.S. 4,590,714. Claim 10 is rejected as unpatentable over the same references in view of Christoffersen U.S. 6,329,038, while Claims 14 and 15 are rejected as unpatentable over the same references in view of Repp, et al. U.S. 6,261,397.

The purpose of the amendment is to highlight the distinction between the present invention and those found in the primary and secondary references of each rejection -- namely, Katz and Walker.

It is necessary to distinguish between Applicant's "barrier", Katz's "concrete curing" blanket, and Walker's "tarpaulin". Applicant's "barrier" is designed to permanently protect an exterior surface "from direct contact with dirt, wet concrete or other moisture sources that might adversely affect it" (page 6, line 29 - page 7, line 1), especially concrete (page 8, lines 25-29). It is disposed between (i) a substrate having an exterior surface to be protected and (ii) an outer layer in the nature of a concrete slab.

By way of contrast, from the outset Katz is directed only to a Thermal Insulating Blanket For Concrete Curing (see the title) which he defines as being of a type used to cover the concrete "in cold weather curing of concrete" (col. 1, lines 9-11) to "retain heat in newly poured concrete for an extended period of time even in sub-freezing weather" (Col. 1, lines 15-21). The blanket is intended for "repeated use" (col. 1, line 27; Col. 2, lines 35-39) and is intended to be "rolled for storage after use" in order to provide an extended service life (col. 1, lines 33-52; col. 2, lines 39-40 and 46-57). Thus Katz's invention is directed only to providing a temporary structure which is removed after the concrete therebelow has cured, and then rolled for storage until the next time it is to be used, rather than providing a permanent structure such as Applicant's barrier.

Also by way of contrast, from the outset Walker is directed only to a "Heat Insulating Tarpaulin" (see the title) which he defines as useful for protecting "an underlying structure of material from wind, rain and the other affects of the weather" (see Abstract and Background of the Invention). Indeed, Walker's invention is directed only to providing "an extremely desirable weather-proof temporary structure" (col. 3,

lines 9-14, emphasis added) rather than a permanent structure such as Applicant's barrier.

The language of Walker Claim 6 is particularly instructive:

• "said preferred orientation [of the tarpaulin] including positioning said first membrane up or towards the weather and said second membrane down or towards the construction or material to be protected by said tarpaulin."

It is thus indisputable that the references of Katz and Walker contemplate only a curing blanket or tarpaulin which is intended to be removed after curing of the concrete therebelow and, at least in the case of Katz, then be re-used. Neither of these references suggests or discloses that a concrete slab should be disposed over the blanket or tarpaulin; indeed this would preclude removal of the curing blanket or tarpaulin after curing of the concrete.

Succinctly put, only the present invention suggests a permanent intermediate barrier layer which protects on a permanent basis an outer layer of cured concrete from the substrate (which may itself be concrete, soil, brick or the like) therebelow.

In view of the above amendments and remarks, reconsideration of the rejection and allowance of all claims is respectfully requested.

If an extension of time is required to enable this document to be timely filed and there is no separate Request for Extension of Time, this document is to be construed as also constituting a Request for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed. Any fee required for

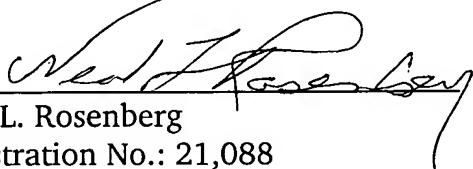
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such a Request for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§ 1.16 and 1.17 and not submitted herewith should be charged to the Deposit Account of the undersigned attorneys, Account No. 01-1785; any refund should be credited to the same account. One copy of this document is enclosed.

Respectfully submitted

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